



VIRGINIA DEPARTMENT OF ENVIRONMENTAL QUALITY

NORTHERN REGIONAL OFFICE
13901 Crown Court, Woodbridge, Virginia 22193
(703)583-3800
www.deq.virginia.gov

Matthew J. Strickler
Secretary of Natural Resources

David K. Paylor
Director

Thomas A. Faha
Regional Director

**VIRGINIA WASTE MANAGEMENT BOARD
ENFORCEMENT ACTION - ORDER BY CONSENT
ISSUED TO
GOODWIN HOUSE INCORPORATED
FOR
GOODWIN HOUSE ALEXANDRIA FACILITY
EPA ID No. VAR000533307**

SECTION A: Purpose

This is a Consent Order issued under the authority of Va. Code § 10.1-1455, between the Virginia Waste Management Board, and Goodwin House Incorporated regarding the Goodwin House Alexandria Facility, for the purpose of resolving certain violations of the Virginia Waste Management Act and the applicable regulations.

SECTION B: Definitions

Unless the context clearly indicates otherwise, the following words and terms have the meaning assigned to them below:

1. "Board" means the Virginia Waste Management Board, a permanent citizens' board of the Commonwealth of Virginia, as described in Va. Code §§ 10.1-1184 and -1401.
2. "CFR" means the Code of Federal Regulations, as incorporated into the Regulations.

3. "Department" or "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia, as described in Va. Code § 10.1-1183.
4. "Director" means the Director of the Department of Environmental Quality, as described in Va. Code § 10.1-1185.
5. "Facility" or "Site" means the Goodwin House Alexandria Facility located at 4800 Fillmore Avenue in Alexandria, Virginia.
6. "Generator" means a person who produces hazardous waste, as defined by 40 CFR § 260.10.
7. "Goodwin House" means Goodwin House Incorporated, a corporation authorized to do business in Virginia and its affiliates, partners, and subsidiaries. Goodwin House is a "person" within the meaning of Va. Code § 10.1-1400.
8. "Hazardous Waste" means any solid waste meeting the definition and criteria provided in 40 CFR § 261.3.
9. "LQG" means large quantity generator, a hazardous waste generator that generates 1000 kilograms (2200 pounds) or greater of hazardous waste or generates greater than 1 kilogram (2.2 pounds) or greater of acute hazardous waste in a calendar month and meets other restrictions. *See* 40 CFR § 262.34(a)-(b) and (g)-(l).
10. "Notice of Violation" or "NOV" means a type of Notice of Alleged Violation under Va. Code § 10.1-1455.
11. "NRO" means the Northern Regional Office of DEQ, located in Woodbridge, Virginia.
12. "Order" means this document, also known as a "Consent Order" or "Order by Consent."
13. "Regulations" or "VHWMR" means the Virginia Hazardous Waste Management Regulations, 9 VAC 20-60-12 *et seq.* Sections 20-60-14, -124, -260 through -266, -268, -270, -273, and -279 of the VHWMR incorporate by reference corresponding parts and sections of the federal Code of Federal Regulations (CFR), with the effective date as stated in 9 VAC 20-60-18, and with independent requirements, changes, and exceptions as noted. In this Order, when reference is made to a part or section of the CFR, unless otherwise specified, it means that part or section of the CFR as incorporated by the corresponding section of the VHWMR. Citations to independent Virginia requirements are made directly to the VHWMR.
14. "Solid Waste" means any discarded material meeting the definition provided in 40 CFR § 261.2.

15. "SQG" means a small quantity generator, a hazardous waste generator that generates greater than 100 kilograms but less than 1000 kilograms of hazardous waste in a calendar month and meets other restrictions. *See* 40 CFR § 262.34(d)-(f).
16. "Va. Code" means the Code of Virginia (1950), as amended.
17. "VAC" means the Virginia Administrative Code.
18. "Virginia Waste Management Act" means Chapter 14 (§ 10.1-1400 *et seq.*) of Title 10.1 of the Va. Code. Article 4 (Va. Code §§ 10.1-1426 through 10.1-1429) of the Virginia Waste Management Act addresses Hazardous Waste Management.

SECTION C: Findings of Fact and Conclusions of Law

1. Goodwin House owns and operates the Goodwin House Facility in Alexandria, Virginia. The Facility is an assisted living facility for the elderly.
2. On May 21, 2018, DEQ staff conducted a hazardous waste compliance evaluation inspection (CEI) at the Facility. The CEI was conducted to evaluate Facility compliance with the applicable Virginia Hazardous Waste Management Regulations.
3. Based on DEQ staff's review of the one hazardous waste manifest for the Facility dated February 9, 2017, and information received from Goodwin House staff during the CEI, from October 2015 through February 2017, staff commingled P-listed hazardous waste with other hazardous wastes at the Facility in a single drum. When the drum was full on February 9, 2017, approximately 50 pounds of mixed hazardous wastes were manifested and removed from the Facility for thermal treatment at Clean Earth Alabama, A RCRA designated facility. Facility staff could not provide documentation of the monthly hazardous waste generation amounts. Calculations of total months accumulated versus total hazardous waste generated indicated that approximately 2.94 pounds of waste were generated per month. Based on this calculation, the Facility was a LQG from October 2015 through February 8, 2017. The Facility failed to request an EPA ID number.
4. 40 CFR 262.12 states EPA identification numbers- (a) A generator must not treat, store, dispose of, transport, or offer for transportation hazardous waste without having received an EPA identification number from the Administrator. (b) A generator who has not received an EPA identification number may obtain one by applying to the Administrator using EPA form 8700-12. Upon receiving the request, the Administrator will assign an EPA identification number to the generator. (c) A generator must not offer his hazardous waste to transporters or to treatment, storage, or disposal facilities that have not received an EPA identification number.
5. During the May 21, 2018 CEI, Goodwin House staff could not provide documentation to DEQ staff that the Facility had notified DEQ that they were a LQG, or notified DEQ of the location of less than 90 day accumulation areas at the Facility.

6. 9 VAC 20-60-262.B states in all locations in these regulations where 40 CFR Part 262 is incorporated by reference, the following additions, modifications, and exceptions shall amend the incorporated text for the purpose of its incorporation into these regulations. 4. For accumulation areas established after March 1, 1988, a large quantity generator shall notify the department and document in the operating record that he intends to accumulate hazardous waste in accordance with 40 CFR 262.17 prior to or immediately upon the establishment of each 90-day accumulation area. In the case of a new large quantity generator who creates such accumulation areas after March 1, 1988, he shall notify the department at the time the generator files the Notification of Hazardous Waste Activity EPA Form 8700-12 that he intends to accumulate hazardous waste in accordance with 40 CFR 262.18. This notification shall specify the exact location of the 90-day accumulation area at the site.
7. DEQ records do not indicate that Goodwin House paid a LQG annual fee for 2015, 2016 and 2017.
8. 9 VAC 20-60-1284.A Payment of Annual fees, states Due date- The operator of the treatment storage, or disposal facility and each large quantity generator shall pay the correct fee to the Department of Environmental Quality. The department may bill the facility or generator for amounts due or becoming due in the immediate future. All payments are due and shall be received by the department no later than the first day of October 2004 (for the 2003 annual year), and no later than the first day of October of each succeeding year thereafter (for the preceding annual year) unless a later payment date is specified by the department in writing.
9. Based on information provided during the May 21, 2018 CEI, and a review of Facility manifests, it appears that Goodwin House stored hazardous waste on site at the Facility for greater than 90 days between January 2016 and February 8, 2017 without a permit or interim status.
10. 40 CFR 262.34.a.2 states Accumulation time. (a) Except as provided in paragraphs (d), (e), and (f) of this section, a generator may accumulate hazardous waste onsite for 90 days or less without a permit or without having interim status, provided that: (2) The date upon which each period of accumulation begins is clearly marked and visible for inspection on each container.
11. During the May 21, 2018 CEI, Goodwin House staff could not provide documentation that it had submitted a Biennial Report by March 1, 2016, for LQG hazardous waste generation or storage that occurred in 2015 or March 1, 2018, for LQG hazardous waste generation or storage that occurred in 2017.
12. 40 CFR 265.75 states in part Biennial report- The owner or operator must prepare and submit a single copy of a biennial report to the Regional Administrator by March 1 of each even numbered year... The biennial report must be submitted on EPA Form 8700-13B. The report must cover facility activities during the previous calendar year and must include the following information...

13. During the May 21, 2018 CEI Goodwin House staff could not provide documentation to show that between October 2015 and February 8, 2017, while a LQG, the Facility had a written hazardous waste training program meeting the requirements of 40 CFR 265.16.d.3. Goodwin House staff could not provide documentation that Facility personnel were trained within six months of being hired. Goodwin House staff could also not provide documentation that an annual refresher of the training was offered while the Facility was a LQG.
14. 40 CFR 265.16 as referenced by 9 VAC 20-60-265, Personnel Training, states: (a)(1) Facility personnel must successfully complete a program of classroom instruction or on-the-job training that teaches them to perform their duties in a way that ensures the facility's compliance with the requirements of this part. The owner or operator must ensure that this program includes all the elements described in the document required under paragraph (d)(3) of this section. (2) This program must be directed by a person trained in hazardous waste management procedures, and must include instruction which teaches facility personnel hazardous waste management procedures (including contingency plan implementation) relevant to the positions in which they are employed. (b) Facility personnel must successfully complete the program required in paragraph (a) of this section within six months after the effective date of these regulations or six months after the date of their employment or assignment to a facility, or to a new position at a facility, whichever is later. Employees hired after the effective date of these regulations must not work in unsupervised positions until they have completed the training requirements of paragraph (a) of this section. (c) Facility personnel must take part in an annual review of the initial training required in paragraph (a) of this section. (3) At a minimum, the training program must be designed to ensure that facility personnel are able to respond effectively to emergencies by familiarizing them with emergency procedures, emergency equipment, and emergency systems, including where applicable: (i) Procedures for using, inspecting, repairing, and replacing facility emergency and monitoring equipment; (ii) Key parameters for automatic waste feed cut-off systems; (iii) Communications or alarm systems; (iv) Response to fires or explosions; (v) Response to ground-water contamination incidents; and (vi) Shutdown of operations. (b) Facility personnel must take part in an annual review of the initial training required in paragraph (a) of this section. (d) The owner or operator must maintain the following documents and records at the facility; (3) A written description of the type and amount of both introductory and continuing training that will be given to each person filling a position listed under paragraph (d)(1) of this section; (4) Records that document that the training or job experience required under paragraphs (a), (b), and (c) of this section has been given to, and completed by, facility personnel. (e) Training records on current personnel must be kept until closure of the facility. Training records on former employees must be kept for at least three years from the date the employee last worked at the facility. Personnel training records may accompany personnel transferred within the same company.
15. During the May 21, 2018, CEI, Goodwin House staff could not provide documentation to show that between October 2015 and February 8, 2017, while a LQG, job titles and job

descriptions for employees whose positions at the facility were related to hazardous waste management were maintained at the facility and were provided to DEQ inspectors at the time of the inspection.

16. 40 CFR 265.16 states Personnel training – (d) The owner or operator must maintain the following documents and records at the facility: (1) The job title for each position at the facility related to hazardous waste management, and the name of the employee filling each job; (2) A written job description for each position listed under paragraph (d)(1) of this Section. This description may be consistent in its degree of specificity with descriptions for other similar positions in the same company location or bargaining unit, but must include the requisite skill, education, or other qualifications, and duties of facility personnel assigned to each position.
17. Goodwin House staff could not provide documentation to show that between October 2015 and February 8, 2017, while a LQG, the facility made arrangements to familiarize emergency response teams with the layout of the facility and associated hazards, and Goodwin House staff did not have documentation to show that these authorities had declined to enter into such an agreement.
18. 40 CFR 265.37 states Arrangements with local authorities (a)The owner or operator must attempt to make the following arrangements, as appropriate for the type of waste handled at his facility and the potential need for the services of these organizations: (1) Arrangements to familiarize police, fire departments, and emergency response teams with the layout of the facility, properties of hazardous waste handled at the facility and associated hazards, places where facility personnel would normally be working, entrances to roads inside the facility, and possible evacuation routes; (2) Where more than one police and fire department might respond to an emergency, agreements designating primary emergency authority to a specific police and a specific fire department, and agreements with any others to provide support to the primary emergency authority; (3) Agreements with State emergency response teams, emergency response contractors, and equipment suppliers; and (4) Arrangements to familiarize local hospitals with the properties of hazardous waste handled at the facility and the types of injuries or illnesses which could result from fires, explosions, or releases at the facility. Where State or local authorities decline to enter into such arrangements, the owner or operator must document the refusal in the operating record.
19. Goodwin House staff could not provide documentation to show that between October 2015 and February 8, 2017, while a LQG, the facility had a contingency plan meeting the requirements of 40 CFR 262.260.
20. 40 CFR 265.51 states, Purpose and implementation of contingency plan. (a) Each owner or operator must have a contingency plan for his facility. The contingency plan must be designed to minimize hazards to human health or the environment from fires, explosions, or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil, or surface water. (b) The provisions of the plan must be carried out immediately whenever there is a fire, explosion, or release of hazardous waste or

hazardous waste constituents which could threaten human health or the environment.

21. Goodwin House staff could not provide documentation to show that between October 2015 and February 8, 2017, while a LQG, the facility was conducting weekly inspections of hazardous waste containers.
22. 40 CFR 264.174 states that at least weekly, the owner or operator must inspect areas where containers are stored. The owner or operator must look for leaking containers and for deterioration of containers caused by corrosion or other factors.
23. During the May 21 2018, CEI, DEQ staff observed two, four-foot universal waste lamp shipping boxes in the loading dock area. The boxes were labeled "fluorescent tubes." Neither of the used lamp boxes were labeled with the words "Universal Waste-Lamps" or other appropriate labeling.
24. 40 CFR 273.14 as referenced by 9 VAC 20-60-273 states: A small quantity handler of universal waste must label or mark the universal waste to identify the type of universal waste as specified below: (e) Each lamp or a container or package in which such lamps are contained must be labeled or marked clearly with one of the following phrases: "Universal Waste—Lamp(s)," or "Waste Lamp(s)," or "Used Lamp(s)".
25. During the May 21, 2018, CEI DEQ staff observed that universal waste lamp containers displayed no discernible labels indicating the accumulation date and the facility provided no other method or procedure to demonstrate the length of time the universal waste had been accumulated.
26. 40 CFR 273.15(c) as referenced by 9 VAC 20-60-273 states: A small quantity handler of universal waste who accumulates universal waste must be able to demonstrate the length of time that the universal waste has been accumulated from the date it becomes a waste or is received. The handler may make this demonstration by: (1) Placing the universal waste in a container and marking or labeling the container with the earliest date that any universal waste in the container became a waste or was received; (2) Marking or labeling each individual item of universal waste (e.g., each battery or thermostat) with the date it became a waste or was received; (3) Maintaining an inventory system on-site that identifies the earliest date that any universal waste in a group of universal waste items or a group of containers of universal waste became a waste or was received; (5) Placing the universal waste in a specific accumulation area and identifying the earliest date that any universal waste in the area became a waste or was received; or (6) Any other method which clearly demonstrates the length of time that the universal waste has been accumulated from the date it becomes a waste or is received.
27. On July 3, 2018, based on the inspection and DEQ document review, the DEQ issued a Notice of Violation to Goodwin House for the violations described in paragraphs C(3) through C(26) above.

28. Based on the results of the May 21, 2018 CEI, and associated document review, Goodwin House has violated 40 CFR 262.12, 9 VAC 20-60-262, 9 VAC 20-60-1284.A, 40 CFR 262.34.a.2, 40 CFR 265.75, 40 CFR 265.16, 40 CFR 265.37, 40 CFR 262.34.a.2, 40 CFR 265.37, 40 CFR 265.51, 40 CFR 273.14, 40 CFR 264.174, and 40 CFR 273.15.c as described in paragraphs C(3) through C(26), above.
29. Following the May 21, 2018, CEI, Goodwin House staff properly labeled and dated both universal waste containers and provided DEQ with photographic documentation on June 19, 2018. In addition, DEQ staff met with Goodwin House staff on August 7, 2018. During this meeting, Goodwin House staff brought additional documentation to show that it had come into compliance with all violations noted above except for payment of the LQG fee in 2015 and 2016, and submission of a Biennial Report for hazardous waste and storage that occurred in 2015 and 2017.
30. In order for Goodwin House to return to compliance, DEQ staff and representatives of Goodwin House have agreed to the Schedule of Compliance, which is incorporated as Appendix A of this Order.

SECTION D: Agreement and Order

Accordingly, by virtue of the authority granted it in Va. Code § 10.1-1455, the Board orders Goodwin House Incorporated and Goodwin House Incorporated agrees to:

1. Perform the actions described in Appendix A of this Order; and
2. Pay a civil charge of \$6,510.00 within 30 days of the effective date of the Order in settlement of the violations cited in this Order.

Payment shall be made by check, certified check, money order or cashier's check payable to the "Treasurer of Virginia," and delivered to:

Receipts Control
Department of Environmental Quality
Post Office Box 1104
Richmond, Virginia 23218

Goodwin House Incorporated shall include its Federal Employer Identification Number (FEIN) with the civil charge payment and shall indicate that the payment is being made in accordance with the requirements of this Order for deposit into the Virginia Environmental Emergency Response Fund (VEERF). If the Department has to refer collection of moneys due under this Order to the Department of Law, Goodwin House Incorporated shall be liable for attorneys' fees of 30% of the amount outstanding.

SECTION E: Administrative Provisions

1. The Board may modify, rewrite, or amend this Order with the consent of Goodwin House Incorporated for good cause shown by Goodwin House Incorporated, or on its own motion pursuant to the Administrative Process Act, Va. Code § 2.2-4000 *et seq.*, after notice and opportunity to be heard.
2. This Order addresses and resolves only those violations specifically identified in Section C of this Order. This Order shall not preclude the Board or the Director from taking any action authorized by law, including but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the facility; or (3) taking subsequent action to enforce the Order.
3. For purposes of this Order and subsequent actions with respect to this Order only, Goodwin House Incorporated admits the jurisdictional allegations, findings of fact, and conclusions of law contained herein.
4. Goodwin House Incorporated consents to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Order.
5. Goodwin House Incorporated declares it has received fair and due process under the Administrative Process Act and the Virginia Waste Management Act and it waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to any judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Board to modify, rewrite, amend, or enforce this Order.
6. Failure by Goodwin House Incorporated to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.
7. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.
8. Goodwin House Incorporated shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or such other unforeseeable circumstances beyond its control and not due to a lack of good faith or diligence on its part. Goodwin House Incorporated shall demonstrate that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Goodwin House Incorporated shall notify the DEQ Regional Director verbally within 24 hours and in writing within three business days when circumstances are anticipated to occur, are occurring, or have occurred that may delay

compliance or cause noncompliance with any requirement of the Order. Such notice shall set forth:

- a. the reasons for the delay or noncompliance;
- b. the projected duration of any such delay or noncompliance;
- c. the measures taken and to be taken to prevent or minimize such delay or noncompliance;
and
- d. the timetable by which such measures will be implemented and the date full compliance will be achieved.

Failure to so notify the Regional Director verbally within 24 hours and in writing within three business days, of learning of any condition above, which the parties intend to assert will result in the impossibility of compliance, shall constitute a waiver of any claim to inability to comply with a requirement of this Order.

9. This Order is binding on the parties hereto and any successors in interest, designees and assigns, jointly and severally.
10. This Order shall become effective upon execution by both the Director or his designee and Goodwin House Incorporated. Nevertheless, Goodwin House Incorporated agrees to be bound by any compliance date which precedes the effective date of this Order.
11. This Order shall continue in effect until:
 - a. The Director or his designee terminates the Order after Goodwin House Incorporated has completed all of the requirements of the Order;
 - b. Goodwin House Incorporated petitions the Director or his designee to terminate the Order after it has completed all of the requirements of the Order and the Director or his designee approves the termination of the Order; or
 - c. The Director or Board terminates the Order in his or its sole discretion upon 30 days' written notice to Goodwin House Incorporated.

Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve Goodwin House Incorporated from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.

12. Any plans, reports, schedules or specifications attached hereto or submitted by Goodwin House Incorporated and approved by the Department pursuant to this Order are incorporated into this Order. Any non-compliance with such approved documents shall be considered a violation of this Order.

13. The undersigned representative of Goodwin House Incorporated certifies that he or she is a responsible official authorized to enter into the terms and conditions of this Order and to execute and legally bind Goodwin House Incorporated to this document. Any documents to be submitted pursuant to this Order shall also be submitted by a responsible official of Goodwin House Incorporated.
14. This Order constitutes the entire agreement and understanding of the parties concerning settlement of the violations identified in Section C of this Order, and there are no representations, warranties, covenants, terms or conditions agreed upon between the parties other than those expressed in this Order.
15. By its signature below, Goodwin House Incorporated voluntarily agrees to the issuance of this Order.

And it is so ORDERED this 7 day of May, 2019.

for Richard C. Doucette
Thomas A. Faha, NRO Regional Director
Department of Environmental Quality

Goodwin House Incorporated voluntarily agrees to the issuance of this Order.

Date: 3/2/19 By: [Signature] cfo
(Person) (Title)
[Goodwin House Incorporated]

Commonwealth of Virginia
City/County of Alexandria

The foregoing document was signed and acknowledged before me this 21st day of March, 2019, by Richard T. Carter who is Chief Financial Officer of Goodwin House Incorporated, on behalf of the corporation.

[Signature]
Notary Public

178955
Registration No.

My commission expires: 06/30/2023

Notary seal:



APPENDIX A SCHEDULE OF COMPLIANCE

Goodwin House Incorporated shall:

1. Pay all outstanding Large Quantity Generator fees for 2015, 2016, and 2017 within 30 days of execution of this Order.
2. Contact Information

Unless otherwise specified in this Order, Goodwin House shall submit all requirements of Appendix A of this Order to:

Attention: Enforcement
VA DEQ –NRO Regional Office
13901 Crown Court
Woodbridge, VA 22193